

Jean R. URANGA
Hearing Officer
714 North 5th Street
P.O. Box 1678
Boise, Idaho 83701
Telephone: (208) 342-8931
Facsimile: (208) 384-5686
Idaho State Bar No. 1763

BEFORE THE BOARD OF SOCIAL WORK EXAMINERS

STATE OF IDAHO

In the Matter of the License of:)	
)	Case No. SWO-2007-19
MARISELA LACKEY,)	
License No. LSW-28009,)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW
)	AND RECOMMENDED ORDER
Respondent.)	
)	

This matter is before the Hearing Officer based upon a written Stipulation of the parties. Based upon the written Stipulation of the parties, no evidentiary hearing was conducted.

FINDINGS OF FACT

1. The Idaho State Board of Social Work Examiners (the "Board") is empowered by Idaho Code §54-3204 to regulate the practice of social work in the State of Idaho.

2. Respondent is a licensee of the Board and holds License No. LSW-28009 to practice as a Licensed Social Worker in the State of Idaho. Respondent's license is subject to the provisions of title 54, chapter 32, Idaho Code.

3. On or about April 2, 2002, Respondent submitted an Application for Social Work License to the Board. As part of that application, Respondent signed the affidavit which states in pertinent part: "I further certify that I am of good moral character and that I have reviewed and will comply with the Idaho Laws and Rules, including the Code of Professional Conduct, governing the practice of Social Work."

4. Former Board Rule 202 (IDAPA 24.14.01.202) (2002) allowed individuals who had submitted an Application for Social Work License to obtain a permit to temporarily practice as a social worker under supervision. On June 28, 2002, Respondent submitted an Application for Temporary Permit to the Board. Respondent was issued Temporary Permit No. SW-24359 on July 10, 2002.

5. Temporary Permit No. SW-24359 expired on November 30, 2002.

6. Between December 2002 and May 2006, Respondent took the Social Work Licensure Examination on six occasions and failed the examination each time.

7. Respondent was hired as a social worker by the State of Idaho Department of Health and Welfare in approximately December 2002.

8. During Respondents employment with the Department of Health and Welfare, Respondent falsely prepared or made a Social Work license in her name, which bore a counterfeit seal of the State of Idaho and the forged signature of Rayola Jacobsen, the

Chief of the Bureau of Occupational Licenses, on at least one occasion. Respondent passed, as true and genuine documents, counterfeited/forged copies of a Social Work license to a Department of Health and Welfare Human Resources Specialist in approximately June 2003, June 2004 and June 2005.

9. In approximately May 2006, the Human Resources Specialist at the Department of Health and Welfare discovered that Respondent did not possess a valid Idaho Social Work license. Respondent's employment with the Department of Health and Welfare was subsequently terminated.

10. During the time that Respondent was employed with the Department of Health and Welfare from approximately December 2002 to May 2006, Respondent completed approximately 58 risk assessments and of those cases, of which approximately six to eight required court involvement.

11. On November 20, 2006, Respondent was convicted of Forgery, a felony, in violation of Idaho Code § 18-3601, and Doing Business Without a License, a misdemeanor, in violation of Idaho Code § 18-6305, in State v. Lackey, Idaho Seventh Judicial District for Madison County Case No. CR-2006-0002566. True and correct copies of the Prosecuting Attorney's Information and the Order Withholding Judgment and Order of Probation in Case No. CR-2006-0002566 are attached hereto as, respectively, Exhibits A and B.

12. On or about March 14, 2007, Respondent passed the Social Work Licensure Examination and was issued License No. LSW-28009.

13. Respondent's conviction of a felony and conviction of an offense involving moral turpitude in State v. Lackey, Idaho Seventh Judicial District for Madison County Case No. CR-2006-0002566, constitute violations of the laws governing the practice of social work, specifically Idaho Code § 54-3211(1).

14. Pursuant to Stipulation of the parties, the Respondent submitted a letter under seal explaining why she falsified her licensing documents. The Board of Social Worker Examiners should consider that letter in determining appropriate sanctions.

CONCLUSIONS OF LAW

15. Respondent's fraud and deceit in connection with services rendered as a social worker constitutes a violation of the laws governing the practice of social work, specifically Idaho Code § 54-3211(3).

16. Respondent's failure to be licensed and continuing to represent herself as licensed after the expiration of her Temporary License constitute violations of the laws governing the practice of social work, specifically Idaho Code § 54-3211(5).

17. Respondent's actions as described above constitute unprofessional conduct and constitute a violation of the laws governing the practice of social work, specifically Idaho Code § 54-3211(6) and (7) and Board Rule 450.01.b.

18. Respondent acknowledges that she has received adequate opportunity to consult with legal counsel of her own choosing and that Respondent understands the contents of this Stipulation and is

voluntarily signing below.

19. Idaho Code §54-3212 provides the Board with authority to refuse to renew, revoke or suspend any license if the licensee has wilfully violated any of the rules prescribed by the Board or the Social Work Licensing Act. Based upon the facts of this case, the Board should consider issuing disciplinary sanctions, which in their discretion, the Board may deem appropriate after considering Respondent's letter submitted under seal.

RECOMMENDED ORDER

It is hereby recommended that the Board of Social Work Examiners enter disciplinary sanctions which it deems appropriate against Respondent based upon her wilful, fraudulent violations of the Social Work Licensing Act.

DATED This 12 day of December, 2007.



JEAN R. URANGA
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY That on this 12 day of December, 2007, I served true and correct copies of the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDED ORDER by depositing copies thereof in the United States mail, postage prepaid, in an envelope addressed to:

Marisela Lackey
2128 W. 4700 S.
Rexburg, Idaho 83440

Emily A. Mac Master
Deputy Attorney General
Civil Litigation Division
Office of the Attorney General
P.O. Box 83720
Boise, Idaho 83720-0010

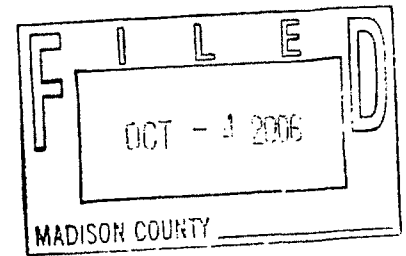
Marcie McGinty
Administrative Assistant
State of Idaho
Bureau of Occupational Licenses
Owyhee Plaza
1109 Main Street, Suite 220
Boise, Idaho 83702-5642



JEAN R. URANGA

SID D. BROWN
Madison County Prosecuting Attorney

Troy D. Evans
Chief Deputy
159 East Main Street
P. O. Box 350
Rexburg, Idaho 83440
(208) 356-7768



IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF MADISON

STATE OF IDAHO,)	
)	
Plaintiff,)	Case No. CR-2006-0002566
)	
vs.)	PROSECUTING
)	ATTORNEY'S
MARISELA LACKEY,)	INFORMATION
)	
Defendant.)	

MARISELA LACKEY is accused by the Prosecuting Attorney of the County of Madison, State of Idaho, by this Information of committing, prior to the filing of this Information, the following crime(s):

COUNT I.

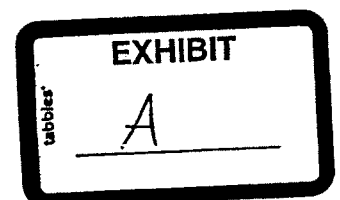
FORGING OR COUNTERFEITING A PUBLIC SEAL, a Felony

Idaho Code § 18-3603, 18-3601, 18-3604

(Punishment: Not less than 1 year nor more than 14 years imprisonment, and/or up to \$50,000 fine)

The Defendant, MARISELA LACKEY, on or about the days between April 1, 2005, and July 31, 2005, in the County of Madison, State of Idaho, did, falsely and with the intent to defraud another, make, alter or counterfeit the seal of the State of Idaho, by falsely preparing or making a licensed social worker license in her name, which bore the seal of the State of Idaho and the forged signature of Rayola Jacobsen, and thereafter did pass said counterfeited document as true and genuine.

PROSECUTING ATTORNEY'S
INFORMATION

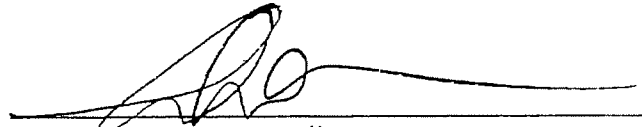


COUNT II.
DOING BUSINESS WITHOUT A LICENSE, a Misdemeanor
Idaho Code § 18-6305

(Punishment: up to six months in the county jail, and/or not more than \$300 fine)

The Defendant, MARISELA LACKEY, on or about the days between November 1, 2005, and November 30, 2005, in the County of Madison, State of Idaho, did carry on a profession or calling which required a license, without taking out or procuring such license, by practicing as a Licensed Social Worker for the Idaho Department of Health and Welfare, without a license.

DATED this 4th day of ~~September~~^{October}, 2006.



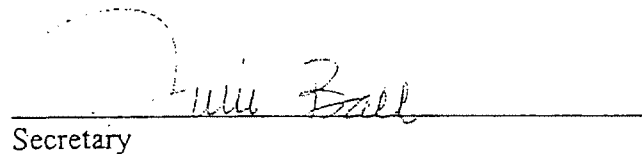
Sid D. Brown, Prosecuting
Attorney for Madison County

CERTIFICATE OF MAILING

I HEREBY CERTIFY that a true and correct copy of the foregoing PROSECUTING ATTORNEY'S INFORMATION was on this date served upon the person named below, at the address set out below his name, by mailing to him a true and correct copy of said document at the address set out below.

DATED this 4th day of ~~September~~^{October}, 2006.

Dale P. Thomson
Attorney at Law
115 East Main
P. O. Box 609
Rexburg, Idaho 83440



Secretary

Seventh Judicial District Court, State of Idaho
In and For the County of Madison
159 E. Main
Rexburg, Idaho 83440

STATE OF IDAHO
Plaintiff,

vs.

Marisela Lackey
1970 N 3701 W
Rexburg, ID 83440

Defendant.

DOB: 1/23/1970
DL or SSN: LA204449G ID

Citation No:

Case No: CR-2006-0002566

**ORDER WITHHOLDING JUDGMENT
AND ORDER OF PROBATION**

WHEREAS, on , Marisela Lackey was arraigned before the Honorable Brent J. Moss, District Judge of the Seventh Judicial District in and for the County of Madison.

AND WHEREAS, the Defendant was fully informed by the Court of the nature of the charge(s) of Forgery I18-3601 and License-doing Business Without License Prohibited I18-6305 .

Upon inquiry by the Court, the Defendant advised that he/she did not wish to withdraw said plea.

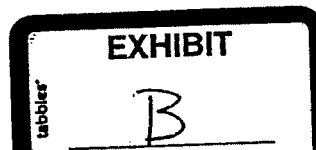
AND WHEREAS, on November 20, 2006, the Prosecuting Attorney for Madison County, Idaho, together with the above named Defendant and his/her counsel of record appeared before the Court for the pronouncement of sentence upon the defendant;

AND WHEREAS, counsel for the defendant was provided the opportunity to speak on behalf of the defendant and the Court addressed the defendant personally and advised the defendant of his/her right to make a statement in his/her own behalf and to present any information in mitigation of punishment.

AND WHEREAS, the defendant was asked if there was any legal cause why sentence should not be pronounced and no sufficient cause was given.

AND WHEREAS, defendant has requested probation from the District Court and, said District Court, having reviewed and considered the criteria for placing a defendant on probation or imposing imprisonment under Idaho Code § 19-2521, and having reviewed the provision of Idaho Code § 19-2521, and having reviewed the provision of Idaho Code § 19-2601 and Rule 33(d) of the Idaho Criminal Rules regarding the defendant's request for probation, does hereby order and decree that said defendant be placed on probation for a period of 5 years and judgment is hereby withheld for a period of 5 years under the following conditions:

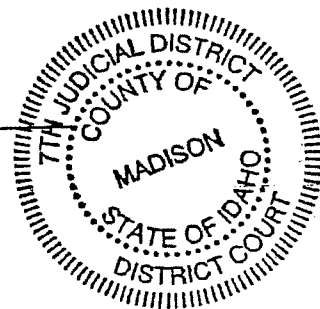
Case No: CR-2006-0002566
**ORDER WITHHOLDING JUDGMENT
AND ORDER OF PROBATION**



1. That the probation is granted to and accepted by the probationer, subject to all the terms and conditions specified in the Conditions of probation and the Department of Corrections Agreement of Supervision, which must be obeyed, a copy of which is attached hereto and made a part hereof by this reference, and with the understanding that the Court may at any time, in case of violation of the terms of the probation, cause the probationer to be returned to the Court for the imposition of sentence as prescribed by law.
2. That the probationer shall be under the legal custody and control of the Director of Probation and Parole of the State of Idaho and the District Court and subject to the rules of probation as prescribed by the Board of Corrections and the District Court including those attached hereto.
3. That the probationer, if placed on probation to a destination outside the State of Idaho, or leaves the confines of the State of Idaho with or without permission of the Director of Probation and Parole does hereby waive extradition to the State of Idaho and also agreed that the said probationer will not contest any effort by any state to return the probationer to the State of Idaho.
4. That the probationer is also subject to the following Special Conditions, to wit:
 - a. Probationer shall complete 100 hours of Community Service within 6 months.
 - b. Probationer shall pay \$50.00 monthly towards fines and fees.
 - c. Probationer shall secure and maintain employment.
5. And it is further ordered that upon expiration of the period of withheld judgment herein fixed, or the earlier determination thereof, and upon written showing by or on behalf of the defendant that he/she has fully complied with the terms of probation, then and in that event, this action shall be dismissed.

Dated: November 20, 2006

Brent J. Moss
Brent J. Moss



CONDITIONS OF PROBATION

1. Probationer shall report within 72 hours unless otherwise directed by the Court to the District Seven Probation and Parole Office and make him/herself available to the probation activation process.
2. Probation has been ordered for a specific length of time; however, probation shall not be terminated until the Court has both reviewed the performance of the probation and has signed an order discharging the probation. Probation is subject to extension for non-payment of costs, fines, and restitution or unsatisfactory performance.
3. In addition to any jail sentence ordered to be served immediately, the probationer shall serve an additional **180 days** at any time during the probationary period to be served at the discretion of the court as recommended by an agent of probation and parole.
4. Probationer shall pay the following to the Clerk of the District Court:
Fine and Fees: \$560.00

The Court may order probationer to pay up to an additional 25% of restitution ordered to be paid to compensate for delay in payment. If restitution is not set at the time of sentencing, the prosecutor's office shall submit an itemized statement of costs which will determine restitution, subject to further order of the court.

If community service has been ordered by the Court or as a condition of supervision on a specialized caseload, the probationer is responsible for workman's compensation fees at a rate of 60 cents per hour unless waived or reduced by the Court.

5. Probationer shall not purchase, carry, or have in his/her possession or control any firearm, ammunition, explosives, or other dangerous weapons.
6. Probationer shall not without permission from the Court or probation department: (a) purchase or operate a motor vehicle; (b) incur any unnecessary indebtedness; (c) leave the assigned district.
7. Probationer shall submit to a search of his person, residence or vehicle, at the request of an agent of probation and parole, without a search warrant.
8. Probationer shall maintain employment or an approved program at all times, or, if not employed, make a diligent effort to obtain employment. Probationer shall report any termination of employment or program to the supervising probation officer within two days of termination.
9. Probationer shall participate in any mental health, drug/alcohol abuse program, vocational rehabilitation, educational or learning program as recommended by his/her probation officer and pay the costs of such programs.
10. Probationer shall participate in and successfully complete any specialized caseload program prescribed by the Department of Corrections as recommended by the supervising Probation Officer.
11. Probationer shall not associate with any individual specified by his/her probation officer. Further, probationer shall not associate with anyone connected unlawfully to this crime or anyone on probation or parole or people who use unlawful drugs.

12. Probationer shall not frequent any establishment where the sale of alcohol is the major source of income and must not consume any alcoholic beverages nor use any drugs or controlled substances not prescribed by a licensed physician.
13. Probationer shall submit at his/her own expense (unless waived) blood, breath, or urine at the request of an agent of probation and parole to be analyzed for the detection of substance abuse or alcohol consumption.
14. Probationer shall respect and obey all laws and report any criminal arrest or receipt of any citation for violation of the law to his/her Probationer Office within two days of arrest or receipt of any citation.
15. Probationer shall submit to a polygraph examination at his/her own expense (unless waived) if requested by his/her Probation Officer.

This is to certify that I have read or have had read to me and fully understand all the conditions, regulations, and restrictions as made by the State Board of Corrections and those imposed by the District Court as conditions of my being granted probation. I hereby agree to abide by and conform to them strictly and fully understand that my failure to do so may result in the revocation of my probation.

Probationer

Date

Probation Officer

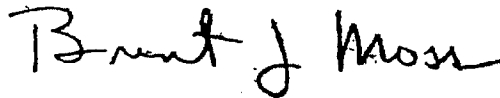
Date

SUPPLEMENTAL PROVISIONS OF JUDMENT OF ORDER

IT IS FURTHER ORDERED THAT Marisela Lackey pay each of the sums indicated in the manner and on such terms as are more particularly specified below.

1. COURT COSTS of \$17.50 will be paid.
2. VICTIMS' COMPENSATION: a fine of \$50.00 per felony count will be paid to the Clerk of the Court for deposit into the crime victims' compensation account (I.C. § 72-1025). In addition to the \$25.00 and the \$50.00 fines on each count of a misdemeanor or felony offense, another fine of not less than \$200.00 per count is imposed for any conviction or finding of guilt for any sex offense, including, but not limited to offenses under §§ 18-1506, 18-1507, 18-1508, 18-1508A, 18-6101, 18-6108, 18-6605, 18-6608.
3. PROBATION SUPERVISION/WORK RELEASE REIMBURSEMENT: [probationers and county work release prisoners] A sum of not more than \$50.00 per month for probation supervision if such payment is determined by the Division of Probation and Parole of the Idaho Department of Corrections to be appropriate. The exact amount to be paid, and the terms and conditions of payment, will be determined by the Division of Probation and Parole. (I.C. § 20-225)
4. VICTIM RESTITUTION: N/A Restitution to the victim(s) of the crime(s), which shall be payable through the District Court's office, in the following amounts: to be submitted by the prosecuting attorney's office. Such restitution is due and payable in full on the last day of probation.
5. IDAHO STATEWIDE TRIAL COURT AUTOMATED RECORD TECHNOLOGY FEE: A fee of \$10.00 will be paid to the Clerk of the Court for deposit into the ISTARs technology fund. (I.C. § 31-3201(5)).
6. COMMUNITY SERVICE FEE: A fee of \$60.00 (\$60 x number of community service hours) will be paid to the Clerk of the Court for defendant's workers compensation coverage (I.C. § 31-3201D)
7. P.O.S.T. FEE: A fee of \$10.00 will be paid to the Clerk of the Court for deposit into the peace officer's standards and training account.
8. PUBLIC DEFENDER COSTS: N/A The sum of \$350.00 will be paid to reimburse Madison County for the expense incurred in providing legal representation and other necessary services and facilities of representation by the public defender's office.

Dated: November 20, 2006



Brent J. Moss